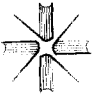




COLORADO DEPARTMENT OF EDUCATION
STATE OFFICE BUILDING
201 EAST COLLINS AVENUE
DENVER, COLORADO 80203

MEMORANDUM

STATE LIBRARY AND ADULT EDUCATION OFFICE



DOCKET FILE COPY ORIGINAL

DATE: July 31, 1996

FROM: Nancy Bolt Assistant Commissioner *NB*

RE: CC Docket No. 96-45 *96-45*

TO: Federal Communications Commission Service List *96-45*

Enclosed please find a copy of our comments regarding the questions posed in CC Docket 96-45 "Common Carrier Bureau Seeks Further Comment on Specific Questions in Universal Service Notice of Proposed Rulemaking" released as a Public Notice July 3, 1996. Thank you for your interest in this issue.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Federal-State Joint Board of)
Universal Service)

CC Docket No. 96-45

Comments Pursuant to Public Notice DA 96-1078 Released July 3, 1996
of the Colorado State Library
Submitted August 2, 1996

I. Introduction and Summary

On behalf of all libraries in Colorado, the Colorado State Library welcomes the opportunity to reply to the questions published in the July 3, 1996 Public Notice entitled "Common Carrier Bureau Seeks Further Comment on Specific Questions in Universal Service Notice of Proposed Rulemaking.

Definition Issues

1. Is it appropriate to assume that current rates for services included within the definition of universal service are affordable despite variations among companies and services areas?

It is appropriate to assume that current rates for services in urban areas are appropriate, but not in rural and frontier areas.

3. When making the "affordability" determination required by Section 254(I) of the Act, what are the advantages and disadvantages of using a specific national benchmark rate for core services in a proxy model?

Using a specific benchmark rate could cause telecommunications service providers to link their costs to that specific benchmark rather than becoming the most cost efficient providers. This would be contrary to the express purpose of the Telecommunications Act of 1996 (Public Law 104-104) which intends to bring down the price of services by inducing additional competition.

Schools, Libraries, Health Care Providers

6. Should the services or functionalities eligible for discounts be specifically limited and identified, or should the discount apply to all available services?

The Colorado State Library has continued to support the American Library Association position that all services available commercially under tariff or through contract in a region should be made available to libraries at a discount. Libraries need to stay at or as near the leading edge of technology as possible.

8. To what extent should the provisions of Sections 706 and 708 be considered by the Joint Board and be relied upon to provide advanced services to schools, libraries and health care providers?

To the extent that the Joint Board and Federal Communications Commission are attempting to define advanced services initially, the definition in Section 706 is an appropriate one. However, the Colorado State Library does not support the use of Sections 706 and 708 to replace the discount responsibilities required in Section 254.

9. How can universal service support for schools, libraries and health care providers be structured to promote competition?

The Colorado State Library concurs with the American Library Association's position that the Joint Board and the Federal Communications Commission should follow the principles of consistency and soundly-based economic theory and financial practice. The Universal Service fund should not be used to subsidize the front-end costs for deployment of new technology, nor should it be used to subsidize monopolies in non-competitive markets.

10. Should the resale prohibition in Section 254(h)(3) be construed to prohibit only the resale of services to the public for profit, and should it be construed so as to permit end user cost based fees for services? Would construction in this manner facilitate community network and/or aggregation of purchasing power?

Yes. This would be the most appropriate way to interpret this provision because there are fees associated with running a network that need to be recovered. This definition of resale would allow the network to run appropriately, efficiently and affordably.

11. If the answer to the first question in number 10 is "yes," should the discounts be available only for the traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts?

No. Discounts should be available to the network as an entity, not to the individual components of the network. Network members that do not qualify individually for the discount still add value to the network as a whole. Discouraging public/private collaboration would diminish the breadth of information the network provides to its members, thus decreasing its value.

12. Should discounts be directed to the states in the form of block grants?

No. Block grants cannot meet the needs of every library and school in every community.

13. Should discounts for schools, libraries and health care providers take the form of direct billing credits for telecommunications services provided to eligible institutions?

No. This proposal also institutes a cumbersome, top-down process for allocating "credits" or funds. This is not contemplated in the law which specifically identifies "discounts" as the appropriate mechanism to disseminate telecommunications technology to libraries and schools.

14. If the discounts are dispensed as block grants to states or as direct billing credits for schools, libraries and health care providers, what, if any, measures should be implemented to assure that the funds allocated for discounts are used for their intended purposes?

These mechanisms are inappropriate and, in our view, do not meet the requirements of the law. As envisioned in the law, discounts directly to the library provide sufficient accountability to assure appropriate allocation of funds.

15. What is the least administratively burdensome requirement that could be used to ensure that requests for supported telecommunications services are bona fide requests within the intent of Section 254(h)?

The least administratively burdensome requirement that could be used to ensure that requests for supported telecommunications services are bona fide is to identify only specific people eligible to request a discount for telecommunications services.

16. What should be the base service prices to which discounts for schools and libraries are applied: (a) total service long-run incremental cost; (b) short-run incremental costs; (c) best commercially-available rate; (d) tariffed rate; (e) rate established through a competitively-bid contract in which schools and libraries participate; (f) lowest of some group of the above; or (g) some other benchmark? How could the best

commercially-available rate be ascertained, in light of the fact that many such rates may be established pursuant to confidential contractual arrangements?

The Colorado State Library continues to support the American Library Association's recommendation as the base discounted price of (1) the best commercial price offered or (2) TS-LRIC.

17. How should discounts be applied, if at all, for schools and libraries and rural health care providers that are currently receiving special rates?

Current contracts should continue to be honored irrespective of Section 254.

19. Should an additional discount be given to schools and libraries located in rural, insular, high-cost and economically disadvantaged areas? What percentage of telecommunications services (e.g. Internet services) used by schools and libraries in such areas are or require toll calls?

Yes. Similar to other users in these areas, libraries in rural, insular, high-cost and economically disadvantaged areas require additional support to the anticipated discounts offered by telecommunications service providers.

22. Should separate funding mechanisms be established for schools and libraries and for rural health care providers?

The provisions of the law are slightly different for rural health care providers and schools and libraries. We see no reason to favor one approach over the other, or to insist that there be similar or identical approaches to funding mechanisms.

23. Are the cost estimates contained in the McKinsey Report and NII KickStart Initiative an accurate funding estimate for the discount provisions for schools and libraries, assuming that tariffed rates are used as the base prices?

The NII KickStart Initiative may be appropriate for estimating the needs of large urban libraries. However, by estimating that the need for high bandwidth is proportional to population, rural needs are understated.

II. Full Comments

Definition Issues

1. Is it appropriate to assume that current rates for services included within the definition of universal service are affordable despite variations among companies and services areas?

It is appropriate to assume that current rates for services in urban areas are appropriate, but not in rural and frontier areas. As mentioned in our previous comments, Colorado offers a unique ability to look at the differences between urban and very rural/frontier areas. Using the only state wide provider of Internet access, a person living in an urban area pays a flat fee of \$15.00 per month for five hours of service. Additional hours cost \$3.00 per hour or less depending on the time of day. Rural customers, however, pay \$13.00 an hour with no flat rate, no reduced fee for night time use for the same service in the same network - they receive no discount at all.

In addition, dedicated line access provides an even starker contrast. A recent comparison of a dedicated line to a particularly rural area, a frontier area (defined as 6 people per square mile), was \$680 per month while the cost of a dedicated line to much more distant, but urban area was under \$250 per month.

Further, the latest numbers available for the largest Internet provider in the state suggest that starting connections of 56/64K Frame Relay in a small, relatively isolated town, such as Alamosa, CO, would cost approximately \$900 per month while identical services in Boulder or Denver, CO would cost approximately \$450 per month. T1 Frame Relay would be \$3,422.97 versus \$716.

Finally, there are rural and frontier areas of our state where libraries and small rural schools simply cannot get additional telephone lines or digital service because the facilities are not available in their communities. These users are forced to pay appreciably more for service while they can least afford it. These costs exemplify the problems rural and frontier areas of the state currently face in accessing telecommunications services.

3. When making the "affordability" determination required by Section 254(I) of the Act, what are the advantages and disadvantages of using a specific national benchmark rate for core services in a proxy model?

Using a specific benchmark rate could cause telecommunications service providers to link their costs to that specific benchmark rather than becoming the most cost efficient providers. This would be contrary to the express purpose of the Telecommunications Act of 1996 (Public Law 104-104) which intends to bring down the price of services by inducing additional competition. If, in fact, the cost of providing services declines and the benchmark remains constant, the Universal Service Fund would be used to subsidize increasing inefficiency on the part of telecommunications providers. However, if the benchmark were annually re-figured to recognize decreasing costs across the country, it could be a useful tool by which telecommunications providers could judge their own performance. This does not necessarily make it a good judge of affordability.

Schools, Libraries, Health Care Providers

6. Should the services or functionalities eligible for discounts be specifically limited and identified, or should the discount apply to all available services?

The Colorado State Library has continued to support the American Library Association position that all services available commercially under tariff or through contract in a region should be made available to libraries at a discount. Libraries need to stay at or as near the leading edge of technology as possible. We would be concerned that any list of services would inevitably be a "lowest common denominator" list, omitting newer or higher level services that some libraries might need. As long as telecommunications services continue to change at such a rapid pace, an identified list of services is not beneficial to the state residents that libraries serve. However, the types of services we believe should be available include advanced digital services (e.g. POTS, 56 and T1 Frame Relay and dedicated service at these rates), fractional T-1, ISDN, Internet service when provided by the telecommunications company, and one-time installation/construction costs.

8. To what extent should the provisions of Sections 706 and 708 be considered by the Joint Board and be relied upon to provide advanced services to schools, libraries and health care providers?

To the extent that the Joint Board and Federal Communications Commission are attempting to define advanced services initially, the definition in Section 706 is an appropriate one that includes "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics and video telecommunications using any technology."

However, the Colorado State Library does not support the use of Sections 706 and 708 to replace the discount responsibilities required in Section 254. First, libraries are not mentioned in Sections 706. This would mean that libraries would not benefit from any grants issued under this provision. Secondly, Section 708, which establishes a National Education Technology Funding Corporation, will never be able to support the needs of all libraries in developing technological advancement that serves the needs of the public. As we have witnessed in the past, grant programs can only serve a limited number of people each year. In many cases grant demand vastly exceeds grant supply. Perhaps the appropriate use of Section 708 is to aid libraries and schools in achieving initial startup investment, staff training and orientation, curriculum development and acquisition of content. These functions would complement the Section 254 discounts for telecommunications services. The specific purpose of Section 254 is to make sure all citizens everywhere have access to the advanced telecommunications services that have become increasingly vital to successful employment and productivity.

9. How can universal service support for schools, libraries and health care providers be structured to promote competition?

The Colorado State Library concurs with the American Library Association's position that the Joint Board and the Federal Communications Commission should follow the principles of consistency and soundly-based economic theory and financial practice. The Universal Service Fund should not be used to subsidize the front-end costs for deployment of new technology, nor should it be used to subsidize monopolies in non-competitive markets. Allowed prices that accommodate a sufficient return on investment and adequately accounts for joint and common costs, such as TS-LRIC, should continue to encourage competition.

10. Should the resale prohibition in Section 254(h)(3) be construed to prohibit only the resale of services to the public for profit, and should it be construed so as to permit end user cost based fees for services? Would construction in this manner facilitate community networks and/or aggregation of purchasing power?

Yes. This would be the most appropriate way to interpret this provision because there are fees associated with running a network that need to be recovered. This definition of resale would allow the network to run appropriately, efficiently and affordably.

11. If the answer to the first question in number 10 is "yes," should the discounts be available only for the traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts?

No. Discounts should be available to the network as an entity, not to the individual components of the network. Network members that do not qualify individually for the discount still add value to the network as a whole. Discouraging public/private collaboration would diminish the breadth of information the network provides to its members, thus decreasing its value.

For example, a prominent Colorado network includes a few members that would not qualify individually for a discount including a corporate library. However, citizens throughout the state now have access to the resources in that private law library that are valuable to them.

Also, The Access Colorado Library and Information Network (ACLIN) has dial-up access to the network. ACLIN acts as a gateway to information throughout the state. The library does not have access to information that determines where someone dialing into the network chooses to go. These lines are library lines to facilitate access to state information and are important components of ACLIN.

12. Should discounts be directed to the states in the form of block grants?

No. Block grants cannot meet the needs of every library and school in every community. Secondly, there is no mechanism for the state to cover the costs of disbursing the block grant within the scope of Section 254. This appears to indicate that the sponsors of this provision did not intend for it to be developed as a block grant program, unlike Sections 706 and 708 which explicitly describe the grant process by which funds should be allocated.

13. Should discounts for schools, libraries and health care providers take the form of direct billing credits for telecommunications services provided to eligible institutions?

No. This proposal also institutes a cumbersome, top-down process for allocating "credits" or funds. This is not contemplated in the law which specifically identifies "discounts" as the appropriate mechanism to disseminate telecommunications technology to libraries and schools. Libraries and schools will be empowered and, at the same time, accountable because each local library and schools can develop a solution that best meets its needs while, at the same time, it will invest a substantial amount of its own resources. This responsibility is best left to the individual entity to decide since each has its own unique technological environment and limited resources with which to meet the needs of the state residents it serves.

14. If the discounts are disbursed as block grants to states or as direct billing credits for schools, libraries and health care providers, what, if any, measures should be implemented to assure that the funds allocated for discounts are used for their intended purposes?

These mechanisms are inappropriate and, in our view, do not meet the requirements of the law. As envisioned in the law, discounts directly to the library provide sufficient accountability to assure appropriate allocation of funds.

15. What is the least administratively burdensome requirement that could be used to ensure that requests for supported telecommunications services are bona fide requests within the intent of Section 254(h)?

The least administratively burdensome requirement that could be used to ensure that requests for supported telecommunications services are bona fide is to identify only specific people eligible to request a discount for telecommunications services. A "bona fide" request is a request made in writing by a person qualified under State or local law to order telecommunications services for schools or libraries to a telecommunications provider. This should include persons not directly connected with schools or libraries (defined by the law at 20 U.S.C. 335c et seq), such as officials in library or educational networks, state government procurement offices, or telecommunications departments.

16. What should be the base service prices to which discounts for schools and libraries are applied: (a) total service long-run incremental cost; (b) short-run incremental costs; (c) best commercially-available rate; (d) tariffed rate; (e) rate established through a competitively-bid contract in which schools and libraries participate; (f) lowest of some group of the above; or (g) some other benchmark? How could the best commercially-available rate be ascertained, in light of the fact that many such rates may be established pursuant to confidential contractual arrangements?

The Colorado State Library continues to support the American Library Association's recommendation as the base discounted price of (1) the best commercial price offered or (2) TS-LRIC. ALA's proposal concentrates universal service funding on high-cost and low-income areas and forces commodity pricing in other areas. If competition succeeds in the communications marketplace, and if technological advances continue to drive prices downward rapidly, the market price comes closer to the recommended base for library and school discounts.

17. How should discounts be applied, if at all, for schools and libraries and rural health care providers that are currently receiving special rates?

Current contracts should continue to be honored when they provide a better rate for libraries and schools.

19. Should an additional discount be given to schools and libraries located in rural, insular, high-cost and economically disadvantaged areas? What percentage of telecommunications services (e.g. Internet services) used by schools and libraries in such areas are or require toll calls?

Yes. Similar to other users in these areas, libraries in rural, insular, high-cost and economically disadvantaged areas require additional support to the anticipated discounts offered by telecommunications service providers. For example, the TS-LRIC of a service in an urban or suburban area should both cover a telecommunications provider's cost, cover a modest level of return on investment, as well as be a reasonable rate that libraries could afford to pay. However, the TS-LRIC in a rural or frontier area, while covering the telecommunications provider's cost, would still be prohibitively expensive for a rural or frontier library. Thus, an additional support mechanism, such as the Universal Service Fund, would be necessary to assure access to these services for rural residents.

As of June 1996, the Access Colorado Library and Information Network (ACLIN) spent 50% of its total line costs reaching 5% of the state population to assure information access to the most rural communities in the state. We anticipate that the discount provisions in Section 254 will make dedicated line service more affordable so that these line costs will decline as we continue to serve these populations.

22. Should separate funding mechanisms be established for schools and libraries and for rural health care providers?

The provisions of the law are slightly different for rural health care providers and schools and libraries. We see no reason to favor one approach over the other, or to insist that there be similar or identical approaches to funding mechanisms.

23. Are the cost estimates contained in the McKinsey Report and NII KickStart Initiative an accurate funding estimate for the discount provisions for schools and libraries, assuming that tariffed rates are used as the base prices?

The NII KickStart Initiative may be appropriate for estimating the needs of large urban libraries. However, by estimating that the need for high bandwidth is proportional to population, rural needs are understated. Smaller libraries, to meet the increasing demand for urban-like services, may find that their bandwidth needs are significantly higher to maintain access to information they cannot afford to purchase on their own.